

cc: Karen
Gina
2-11-08



PREMIER ACCESS RESORT AFFILIATION AGREEMENT (Developer and Association)

This Premier Access Resort Affiliation Agreement ("Agreement") is made as of the 1st day of January, 2008 and entered into at Laguna Niguel, California, by and between Trading Places International, a California corporation, its principal place of business being at 23807 Aliso Creek Road, Laguna Niguel, CA 92677 ("TPI"), and VPG IV, LLC ("Developer") having its principal place of business at 3940 Green Mountain Drive, Branson, Missouri 65616, and Stormy Point Village Phase III Property Owners Association Inc. ("Association") having its principal place of business at 3940 Green Mountain Drive, Branson, Missouri 65616 (referred to hereinafter as the "Subject Resort").

RECITALS

TPI makes available the TPI Premier Access program, as hereinafter defined, to individuals who own Timeshare Intervals in Affiliated Resorts. Developer has submitted an Application to affiliate the Subject Resort as an Affiliated Resort and desires to offer participation in the TPI Premier Access program to purchasers and existing owners of Timeshare Interests at the Subject Resort. TPI desires the Subject Resort to become an Affiliated Resort and for Developer each to perform services and duties associated with the TPI Premier Access program in accordance with the provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained in this Agreement, the parties hereby agree as follows:

ARTICLE 1 - DEFINITIONS

For the purposes of this Agreement, the terms listed below shall, unless the context otherwise requires, bear the following meanings:

- 1.1 **Affiliated Resort.** An Approved Resort which, by way of affiliation with Premier Access, has provided inventory in the form of occupancy or use rights to TPI for use in the Premier Access program.
- 1.2 **Approved Resort:** A timeshare resort, other than an Affiliated Resort, which TPI deems to be of an acceptable quality and in an acceptable location such that exchanges may be offered to Premier Access Members.

1.3 **Confirmed Exchange:** TPI's written and oral notification to Developer and to an Exchange Guest that accommodations at the Subject Resort have been reserved for use by the Exchange Guest.

1.4 **Confirmed Premier Time:** TPI's written or oral notification to the Developer and Premier Access Member that accommodations at an Affiliated Resort or an Approved Resort have been reserved for use by that person as Premier Time.

1.5 **Exchange Guest(s):** Person(s) possessing a Confirmed Exchange to an Affiliated or Approved Resort through the TPI Exchange Program or Premier Access.

1.6 **Home Resort:** The Resort at which the owner of a Timeshare Interval has use rights, without exchanging.

1.7 **Membership Application:** The TPI application for purchasers of Timeshare Intervals or existing owners at an Affiliated Resort to join Premier Access.

1.8 **Premier Access:** TPI's premier exchange program, whereby Premier Access Members at an Affiliated Resort can receive use privileges at another Affiliated Resort or at an Approved Resort upon payment of a Premier Access exchange fee. Premier Access Members must pay the annual membership fee described in Sections 3.2.2 and 3.3.4 below. Premier Access is subject to any preferential advance reservation windows given to owners at the home resort by their board of directors or their governing documents. The Premier Access Member gives up their use time at the Subject Resort, and uses space in the Affiliated Resort.

1.9 **Premier Access Application:** The Developer's application for resort affiliation, and any attachments, which is required to be submitted by Developer to TPI in connection with this Agreement.

1.10 **Premier Access Member:** Premier Access members are persons who own a Timeshare Interval at an Affiliated Resort and who are current in payment of their membership fees to TPI. If a Developer has paid the membership fees on behalf of all owners at an Affiliated Resort, all such owners will continue to be Premier Access Members as long as the Developer performs its duties as stated hereunder and the annual membership fees are paid.

1.11 **Premier Time.** Nightly rental by Premier Access Members of unused space at Affiliated or Approved Resorts, upon payment of a Premier Time Fee, and subject to the reservation rules and regulations of the in-bound Resort, which use is on a space-available basis, and generally on less than 45 days notice, with the exact advance reservation window determined by the in-bound Resort.

1.12 **Premier Time Fee.** A use fee for Premier Time equal to the nightly bonus time rate charged by the in-bound resort, plus a \$15 transaction fee paid by the client to TPI.

1.13 **Premier Time Guest(s):** Person(s) in whose name a Premier Time Reservation has been confirmed at an Affiliated Resort or an Approved Resort other than their Home Resort.

1.14 **Premier Time Reservation:** A Confirmed Premier Time reservation given by TPI to a Premier Access Member for the use of Premier Time at an Affiliated or Approved Resort.

1.15 **Resorts:** Timeshare resorts or multi-location timeshare clubs that have, by way of affiliation, management or separate agreement, provided inventory in the form of use weeks or use rights to TPI for its use in Premier Access Program. Availability and locations are not guaranteed and may change from time to time.

1.16 Timeshare Intervals: Ownership, occupancy or use rights in timeshare resorts or vacation ownership plans which meet the regulatory definition of a "timeshare" in the jurisdiction where the project is located. Such use rights may be represented by intervals or points.

1.17 Unit: A furnished dwelling unit of accommodations at a Resort, capable of separate occupancy.

ARTICLE 2 - RELATIONSHIP OF THE PARTIES

2.1 Acknowledgment of Relationship. No party to this Agreement shall be construed as the agent, partner, or affiliate of any other party. No party has the authority to bind any other party to this Agreement, except pursuant to the terms hereof or any express written authorization given by one party to another party. Developer is in the business of selling Timeshare Intervals at the Subject Resort and agrees not to place primary emphasis on any exchange program for the sale of its product(s).

ARTICLE 3 - DEVELOPER'S DUTIES & OBLIGATIONS

3.1 Promotion of Premier Access Program. Developer shall, as outlined in this Agreement, offer the TPI Premier Access Program to purchasers and prospective purchasers at the Subject Resort. Such efforts shall include but not be limited to:

- 3.1.1 Distributing TPI collateral material to all purchasers at the Subject Resort and encouraging continued membership in the TPI Programs.
- 3.1.2 If permitted by the governing documents of the Subject Resort, providing space in the Subject Resort's lobby for a TPI hospitality/trade/travel services desk.
- 3.1.3 At TPI's request and subject to any restrictions contained in the Subject Resort's governing documents or adopted by its board of directors, allow TPI to promote new TPI services and benefits to Subject Resort members via space in the Resort's common areas or Developer's mailings, including newsletters, with any excess costs borne by TPI. Developer shall have the right to approve all promotional pieces distributed by TPI to Subject Resort owners and guests, or utilized in connection with TPI's business or promotions with regard to the Subject Resort, or which contain any depictions of or references to the Subject Resort or the Developer.
- 3.1.4 Providing current information about the Subject Resort, including photographs, or allow TPI access to take Resort exterior or interior photographs and allowing such information and photographs to be included in TPI's promotional materials, subject to the foregoing qualifications in Section 3.1.3.

3.2 Premier Access Application and fees. Developer agrees to:

- 3.2.1 Submit to TPI a fully completed Premier Access individual membership application for each new purchaser at the Subject Resort after the date hereof.
- 3.2.2 Submit to TPI a fee of seventy-nine dollars (\$79.00) for every new sale.

3.3 Developer Obligations. Developer agrees:

3.3.1 To honor all Confirmed Exchanges, Premier Access and Premier Time Reservations at the Subject Resort that have been properly reserved in accordance with this Agreement and the governing documents of the Subject Resort.

3.3.2 Subject to the governing documents of the Subject Resort, to provide TPI, for the benefit of all Premier Access and Premier Time Guests, with the same rights and privileges at the same rates afforded generally to owners at the Subject Resort.

3.3.3 In the event Developer has unbooked vacancy at the Subject Resort, which is available for utilization and subject to the right of any owner at the Subject Resort under its governing documents to reserve any unbooked vacancy, Developer agrees to make a percentage of such inventory available to TPI for the purposes of exchange use hereunder.

3.3.4 Developer agrees to reimburse TPI for the following including, but not limited to: production and all costs, including technical work, postage, printing and layout design work, etc. required to produce and deliver wall tours, directories and collateral materials that are modified for their purposes, and websites that are specific to the developer, associate, or sales and marketing purposes.

3.4 Association's Duties. Unless prohibited by its governing documents or the registration requirements of any jurisdiction where the Subject Resort is registered, Developer agrees to make as part of its annual members club budget, (maintenance fee) a Premier Access annual membership fee of twenty-five dollars (\$25.00) for each owner at the Subject Resort. If Developer is legally prohibited from incorporating said fee into its annual maintenance fee, Developer and TPI shall make alternative arrangements to assure that each owner at the Subject Resort who is to become a Member of Premier Access is charged the annual Premier Access membership fee.

3.5 Denial of Access. If Developer or Association fails to honor a Confirmed Exchange or Confirmed Premier Time Reservation into the Subject Resort or if an Exchange Guest or Premier Time Guest is otherwise denied access to a Unit at the Subject Resort for which such confirmation applies, in either case due to the error or omission of Developer in violation of this Agreement, Developer and Association shall immediately and at its own expense secure alternative accommodations of similar size and quality for the same time period for that person and shall reimburse TPI for any costs incurred by TPI, in connection with such denial of access or failure to honor such confirmation.

ARTICLE 4 - TPI'S DUTIES AND OBLIGATIONS

4.1 Provide TPI and Premier Access Program. TPI shall make the TPI Premier Access program available to owners at TPI Affiliated or Approved Resorts, including the Subject Resort, and perform each of its functions with respect to the TPI Premier Access Program in accordance with this Agreement, TPI's Terms and Conditions of Membership, and TPI Exchange Procedures and Rules and Regulations, and any other oral or written representations made by TPI.

4.2 Process Membership Applications. TPI shall process Membership Applications promptly and fairly.

4.3 Materials. In order to assist Developer in offering the TPI Premier Access Program to prospective purchasers, TPI shall provide to Developer, brochures for up to One Hundred Ten Percent (110%) of all sales. Thereafter, additional materials will be available to Developer at TPI's cost.

4.4 Upgrading of season or unit type. Owners of Timeshare Interests at the Subject Resort will have the ability to upgrade their unit or season over what they currently own through the TPI Premier Access Program, subject to availability. This will be accomplished through utilization of unused Developer inventory as well as TPI's inventory, and will be done on-site with the resort provided the upgrade is for a reservation at Stormy Point Village. TPI shall fully and accurately disclose all fees, terms and conditions of this feature to Subject Resort owners in its promotional literature and point-of-sale materials. Use of this feature is subject to availability and subject to the Subject Resort's governing documents.

4.5 Borrowing of future weeks. Based upon the rights and limitations in the governing documents of the Developer, owners at the Subject Resort may have the right to borrow future years use rights under terms and conditions set and changed from time to time by TPI. In the event the Developer documents do not allow for this feature, this section is void to the offering of the Premier Access Program, and TPI agrees to provide to each Subject Resort owner a clear and conspicuous disclaimer that any TPI brochures or materials offering this feature are not applicable to the Subject Resort.

4.6 Carryover of unused weeks. Owners at Affiliated Resorts have the option of depositing their week of use rights at their Home Resort into TPI's space bank and thereby create a window of up to two years, to use another deposited week, based on space availability of inventory within the TPI Exchange Program. Fees for this and all other services may apply and may change from time to time at TPI's discretion.

4.7 Split weeks. Owners of Timeshare interests at the Subject Resort will have the ability to Split their weeks under the terms and conditions set and changed from time to time by TPI.

4.8 Cruise exchange. Owners of Timeshare interests at the Subject Resort will have the ability to exchange their use time towards a cruise. All terms and conditions are set forth in and changed from time to time by TPI.

ARTICLE 5 – GENERAL

5.1 Term. The initial term of this Agreement shall be five (5) years. The initial term of this Agreement shall automatically renew for another three (3) years, unless terminated per section 7.1.3. Thereafter the term shall extend for a two (2) year period, unless terminated per section 7.1.3. The parties accept and agree that the various units in the Subject Resort will not become available under this Agreement until certificates of occupancy are issued for such units and the Resort is otherwise available for use and occupancy. Thereafter, this Agreement will automatically renew for additional two (2) year terms, until notice of intent to terminate is given by any party hereto pursuant to

Section 5.2, provided, however, that Developer and Association are in compliance with this Agreement at the expiration of the initial term and subsequent renewal terms.

5.2 **Notices.** All notices and other communications made pursuant to this Agreement shall be deemed to have been given if mailed by registered or certified mail, return receipt requested, or transmitted by facsimile with printed confirmation of receipt together with mailing of an original, to the appropriate party at the address listed in the introduction.

5.3 **Legal and Binding Obligation.** Each of the parties hereto and the individuals executing this Agreement on behalf of each party represent and warrant to the other parties that this Agreement has been duly and validly executed and delivered by such party and constitutes a legal, valid, binding and enforceable agreement of such party.

5.4 **Indemnification.** TPI shall indemnify Developer and its respective officers, directors and employees, and Developer and Association shall indemnify TPI and its officers, directors and employees, in each event, from and against any claims, suits, liabilities, damages, judgments, defense costs and expenses (including reasonable attorneys fees) arising from or related to a material breach of this Agreement by the indemnifying party. The party seeking indemnification under this section shall promptly give the party obligated to provide indemnification a notice describing in reasonable detail the facts giving rise to such claim for indemnification and any known damages or amounts claimed; provided that failure to give such notice shall not relieve the indemnifying party of any obligation hereunder except to the extent the indemnifying party has been prejudiced by such delay or failure of notice. The obligations in this section shall survive the termination of this Agreement.

5.5 **Severability.** It shall be at the discretion of any party to amend or sever from this Agreement, any provisions of same which are declared by any judicial or other competent authority to be void, violable, illegal or otherwise unenforceable, and the remaining provisions of Agreement shall remain in full force and effect.

5.6 **General.** Failure of any party to insist on strict compliance with the provisions of this Agreement shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Agreement. This Agreement and all attachments thereto constitute the entire understanding and agreement between the parties concerning the subject matter of this Agreement. This Agreement may be modified only in writing executed by the parties. This Agreement has been executed, made and entered into in California, and the parties hereto consent to the personal jurisdiction of the courts of the State of California. This Agreement and all of its provisions shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

5.7 **Regulatory Approval.** If the Subject Resort is located in a jurisdiction that requires the approval by any state regulatory authority of exchange programs or exchange affiliation agreements, the effectiveness of this Agreement as to Developer is conditioned upon the approval of such regulatory authority. In the event of disapproval of this Agreement by any such state regulatory authority, if the parties are unable to renegotiate terms acceptable to all the parties and to said state regulator, then this Agreement may be terminated upon 10 days prior written notice, and no party shall have any responsibility hereunder following termination, except for obligations which arose prior to termination.

ARTICLE 6 -ACKNOWLEDGMENTS, REPRESENTATIONS AND WARRANTIES

Developer and TPI acknowledge and agree that:

- 6.1 Premier Access membership is available to natural persons, and if a Timeshare Interval is purchased by a trust, corporation or other entity, membership must be in the name of the person authorized by such entity to use the purchased Timeshare Interval.
- 6.2 Through the TPI Premier Access Program, TPI has the right to confirm any individual into designated Units at the Subject Resort which have been deposited with TPI, or into any available Premier Time space at the Subject Resort, provided, however, such Exchange Guest or Premier Time Guest complies with the rules and regulations of the Subject Resort.
- 6.3 TPI may adopt and amend the terms and conditions of the TPI Premier Access Program, including without limitation changes in the Affiliated Resorts, the Approved Resorts, any other vacation benefits offered by TPI, and TPI's fees, from time to time in its discretion upon prior written notice to Developer and Premier Access Members.
- 6.4 TPI and Developer acknowledge that the operation and management of the Premier Access program is based on a "Weeks" structure whereby the owners of the Subject Resort may make Premier Time Reservations at Affiliated Resorts and Approved Resorts based on unit size and season at the Subject Resort in relation to that of ownership interests in the Affiliated Resorts or the Approved Resorts. TPI shall not, without the prior written consent of the Developer, adopt or amend the term and conditions of the Premier Access program in a manner that substantially reduces the vacation experience of the owners of the Subject Resort as a whole, nor reduce the relative reservation power of intervals at the Subject Resort, from that existing at the time of the initial and effective date of this Agreement.
- 6.5 The use of TPI Guest Certificates is personal to TPI Exchange Guests and no commercial use may be made by Developer.

ARTICLE 7 – TERMINATION & REMEDIES

- 7.1 **General Right of Termination.** Any party may terminate participation in this Agreement:
 - 7.1.1 In the event of a breach of any of the terms, conditions, covenants, representations or warranties contained in this Agreement following written notice to the other party stating the grounds for such termination, unless the breaching party cures the asserted breach to the reasonable satisfaction of the party giving such notice within thirty (30) days of the date of notice;
 - 7.1.2 Immediately by giving written notice if the other party commits a breach of any of the provisions of this Agreement which breach is incapable of cure; or
 - 7.1.3 By giving the other party hereto at least 90 days written notice prior to the expiration of the initial term or any renewal term of its intent not to renew this Agreement at the end of such term;
 - 7.1.4 Immediately upon written notice to the other parties if another party is in fundamental or material breach of a term of this Agreement or engages in fraudulent, deceptive or dishonest conduct in connection with this Agreement;

7.1.5 Immediately upon written notice to the other parties if any representation or warranty contained herein is not true at the time it is made or considered reaffirmed.

7.2 Acknowledgments.

7.2.1 Any party's exercise of its right to terminate pursuant to this Agreement shall in no way limit or impair its right to seek other legal or equitable remedies in connection with a breach by any other party and that termination of this Agreement for whatever reason shall not in any way affect the right of any party to receive fees or other amounts that have accrued and remain unpaid.

7.2.2 Limitations on Remedies. Any claims for loss, expense, liability, indemnification, or any other damages related to this Agreement shall be limited to actual direct damages, which shall not include other damages, such as without limitation, consequential, indirect, special, incidental or punitive damages or damages for lost profits.

7.3 Obligations upon Termination. Upon termination of this Agreement:

7.3.1 TPI and Developer and Association shall honor all Confirmed Exchanges and Confirmed Premier Time Reservations, exchange privileges of Exchange Guests, Premier Access and Premier Time Guests that are confirmed or accrued in accordance with the terms hereof prior to termination.

Agreed to and accepted this 12 day of Dec, 2007

"Developer"

By: J.P. Jaya 

Title: Managing Partner

"Association"

By: J.P. Jaya 

Title: President

"TPI"

By: J.P. Jaya 

Title: EXCEL VICE President